

REMARKS

1. Telephonic interview

The Examiner is thanked for the telephonic interview held on April 8, 2008 with the undersigned and his colleague William F. Smith. During the interview, the current rejections were discussed and the Examiner identified U.S. Patent No. 5,819,034 (Joseph) as being relevant to the claimed subject matter. Applicant however traverses any assertion that Joseph either anticipates or renders obvious any claim of this application and only agree that Joseph appears to be relevant to the claimed subject matter. Applicant notes that Joseph has not been formally used or cited in any rejection of the claims in the present application.

2. Amendments

Having a further understanding of the current rejections and having considered Joseph in so far as it was discussed in the interview, the amendment proposed above is believed to be timely and place the claims in condition for allowance.

Claims 1, 9 and 12 have been amended to recite that upon verification of the purchase, the purchased goods and services are directly downloaded to the broadcast receiver. Support for “direct download” is found, e.g., in paragraph [0020] of the specification. Note also that songs are exemplary of the goods and services that can be purchased by way of the disclosed technology. See, e.g., paragraphs [0017] and [0029]. Thus, the as-filed application describes the subject matter as now claimed and there is no issue of new matter.

For clarity, Applicant notes that the download of the good or service to the broadcast receiver may occur either in the same channel as receipt of the broadcast media or through a separate communication channel thereto. See paragraph [0020].

The amendment is timely as the Examiner newly cited Joseph during the interview and Applicant has only now had the opportunity to consider the reference. While the Examiner has not formally applied Joseph in a rejection, Applicant is amending the claims to advance prosecution. Thus, the amendment is timely.

3. Analysis

The claims have been amended to include language setting forth that the goods and services are directly downloaded to the broadcast receiver once the purchase is verified.

Neither Kesling, Borovoy nor Joseph, alone or in combination, teach or suggest this aspect of the claimed subject matter.

Kesling at best suggests the purchase of a compact disc (CD) containing songs that the user has heard on that device or playing a song on the device. See, e.g., Kesling paragraphs [0051] and [0083]. Thus, Kesling arguably teaches away from the direct downloading of the goods or services.

Borovoy and Joseph do not teach or suggest the direct download of any purchase.

DOCKET NO.: EWAL-0002
Application No.: 10/672,133
Office Action Dated: March 17, 2008

PATENT

Conclusion

In view of the foregoing remarks, Applicant respectfully submits that Claims 1-20 are in condition for allowance and entry of the present amendment and notification to that effect is earnestly requested. If necessary, the Examiner is invited to telephone Applicant's attorney (404-254-6681) to facilitate prosecution of this application.

No additional fees are believed due. However, the Commissioner is hereby authorized to charge any additional fees that may be required, including any necessary extensions of time, which are hereby requested to Deposit Account No. 23377.

Date: July 21, 2008

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